

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13623, of Inez Cushard, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 or in the alternative Paragraph 3101.410 to continue to operate a parking lot in an R-2 District at the premises rear 4926 Wisconsin Avenue, N. W., (Square 1671), Lot 30.

HEARING DATE: December 9, 1981

DECISION DATE: January 6, 1982

FINDINGS OF FACT:

1. At the public hearing, the Board waived Section 3.5 of the Supplemental Rules of Practice and Procedure before the BZA which requires that in an application to establish or continue a parking lot the owner be present at the public hearing. The Board noted the advanced age of the owner, the fact that the owner's property manager was present and that there was no opposition to the waiver by the parties.

2. The subject application was advertised in the alternative as a special exception under Paragraph 3101.48 and 3101.410. The Board notes that in its prior approval for the continuation of the parking lot, BZA Application No. 13159 was amended at the public hearing to be processed under Paragraph 3101.410. As the circumstances have not changed, the subject application should be considered under the same paragraph.

3. The subject lot is surrounded on all four sides by public alleys. Its address is rear 4926 Wisconsin Avenue, N. W. It is in an R-2 District.

4. By BZA Order No. 12331, dated June 16, 1977 the Board granted the applicant permission to establish this lot. Among the conditions to the grant of the application were that the applicant would construct a masonry wall forty-two inches high and that she would install a chain link steel post perimeter enclosure for the sides nearest the commercial zoning in accordance with the revised site plan filed on May 9, 1977. The grant was for one year.

5. By BZA Order No. 12717, dated October 17, 1978, the Board granted the continuance of the parking lot for one

year. It noted the great opposition to the manner in which the lot was maintained and not to the use of the lot itself. It further conditioned the order with Conditions "c" and "d" which stated as follows:

- c. The applicant shall increase the size of the chain located along the eastern side of the lot to a minimum diameter of one and one-half inches.
- d. Trees with a minimum caliper of two and one-half to three inches shall be planted in the void areas of the southeast and southwest corners of the lot where cars cannot park due to the design of the lot, as shown on the plan marked as Exhibit 10 of the record.

6. By BZA Order No. 13159, dated July 15, 1980, the Board again granted continuance of the parking lot for one year. In that application, the applicant objected to the above-referenced conditions "c" and "d" of BZA Order No. 12717. The applicant's request to modify those conditions was denied. The Board also required as a condition to granting the application that the applicant submit a detailed landscaping plan and a program for the policing and maintenance of the lot. The Board's order contained the following conditions:

- b. The trash dumpster shall be removed and not maintained on the lot.
- c. The property shall be cleaned of all trash and debris on a regular basis, three days per week, namely, Sunday, Wednesday and Friday.
- d. The masonry walls shall be repaired and maintained at all times regardless of weather or availability of materials.
- e. The property shall be properly landscaped in accordance with plans marked as Exhibit No. 32 of the record.

The Board finds compliance by the applicant with all of the above conditions except that in respect to condition "c," the lot is actually cleaned Sunday, Tuesday and Friday.

7. The lot presently serves as accessory parking for commercial buildings on Lots 20 and 21, in the subject Square 1671, having the addresses of 4922 and 4926 Wisconsin Avenue, N. W. The commercial buildings are in a C-2-A District and are located between Ellicott and Fessenden Streets, N.W. At the time of the public hearing 4926 Wisconsin Avenue, N. W. was vacant.

8. The subject lot has been used as an accessory parking lot for over twenty-five years. It contains approximately thirty parking spaces which are leased exclusively by the tenants of 4922 and 4926 Wisconsin Avenue, N. W.

9. The parking spaces are in an open area located in their entirety within 200 feet of the area to which they are accessory and are separated only by an alley from the commercial buildings.

10. It is economically impractical to locate parking spaces within the principal buildings or on the same lot because of the restricted size of the lot caused by adverse adjoining ownership and substantial improvements on such lots. The Board notes that strip zoning along Wisconsin Avenue does not extend to a depth that includes the alley lot.

11. The applicant's property manager and the caretaker for the lot testified that the subject parking lot is cleaned three times per week, on Sunday, Tuesday and Friday. The applicant's property manager further testified that no complaints were received as to the operation and maintenance of the lot.

12. The applicant's contractor hired to maintain the masonry wall testified that he had replaced the chain specified in the Board's previous order with cable because in his opinion it was a stronger material and less appealing to thieves. According to the contractor, it was difficult to continue to replace the chain specified in the Board's order because thieves were attracted to it. The Board approves the steps taken by the contractor in replacing the chain with more durable material as consistent with the intent of the Board's approval.

13. The D. C. Department of Transportation, by a memorandum dated December 9, 1981, reported that the application had been reviewed and no adverse impacts were identified. The memorandum noted that the lot had been inspected and showed the existing facilities to be clean and in good condition. The memorandum recommended the elimination of parking spaces smaller than the regulation nine feet by nineteen feet and that two parallel parking spaces be moved as shown in the report. The Board requested that the applicant, rather than eliminate parking spaces, post those parking spaces in a way as to reserve them for compact cars only. The applicant has agreed to reserve the small spaces for compact cars.

14. By letter dated November 18, 1981, Advisory Neighborhood Commission 3E reported that it voted not to oppose the continuance of the subject parking lot. However,

the ANC was opposed to making this special exception a permanent, non-renewable exception as the yearly hearings on the lot are a means of policing the undesirable conditions which recur on this property.

15. The Board is required by statute to give "great weight" to the issues and concerns of the ANC. The Board concurs with the ANC's expression of concern regarding the imposition of a time limit on the approval of the parking lot. The Board finds that the applicant has improved the condition of the lot as it previously existed and that the applicant has agreed to additionally improve the lot by posting signs reserving certain spaces for compact cars, and also posting a sign giving information as to the person to contact in the event of complaint or emergency. The Board finds that renewal of the lot for a limited period of time will enable the Board to monitor compliance with this Order.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record the Board concludes that the applicant is seeking a special exception. In order to be granted such an exception, the applicant must demonstrate compliance with Paragraph 3101.410 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the parking cannot be located on the same lots as the buildings which it serves and that it is located within 200 feet of the buildings to which the parking is accessory as demonstrated in Finding of Fact Nos. 9 and 10. The Board further concludes that the applicant has complied with the conditions imposed by the previous order. The D.C. Department of Transportation has reviewed the application and with conditions has no objection to the continued use of the lot as noted in Finding of Fact No. 13.

Based on the record, and with the conditions hereinafter listed, the Board concludes that the application can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property, if the below listed conditions are adhered to. The Board further concludes that the application conforms with Paragraph 3101.410 of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED subject to the following conditions:

1. Approval shall be for a period of TWO YEARS commencing from the date of the expiration of the previous Certificate of Occupancy, namely July 15, 1981.
2. The property shall be cleaned of all trash and debris on a regular basis three days per week,

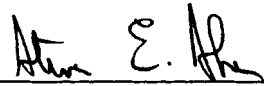
namely, Sunday, Tuesday and Friday.

3. The masonry walls shall be repaired and maintained at all times, regardless of weather or availability of material.
4. The landscaping shall continue to be maintained in a healthy and growing condition and in a neat and orderly appearance.
5. The cables and posts along the eastern boundary shall be maintained and repaired in an orderly manner.
6. The following signs shall be posted:
 - a. A sign giving information on whom to contact in the event of a complaint or an emergency.
 - b. The two substandard size parking spaces located in the northern and western areas of the parking lot shall be posted with signs reserving them for compact cars and shall be reserved for use by employees who work in the buildings at 4922 or 4926 Wisconsin Avenue.
7. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
8. Wheel stops shall be erected and maintained for the protection of all adjoining buildings.
9. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
10. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped.
11. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
12. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 5-0 (William F. McIntosh, Douglas J. Patton,
Charles R. Norris , Lindsley Williams and
Connie Fortune to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN - 4 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING
ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS
AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH
PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE
OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES,
INVESTIGATIONS AND INSPECTIONS.